

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL MEMORANDUM

SB 1715 – HB 1892

May 21, 2009

SUMMARY OF AMENDMENTS (008467, 008833, 008835, 008836, 008867): Deletes all language after the enacting clause. Creates the Judicial Nominating Commission and the Judicial Performance Evaluation Commission to replace the Judicial Selection Commission and the Judicial Evaluation Commission. The newly created Commissions shall terminate on June 30, 2011. The Speaker of the Senate and the Speaker of the House of Representatives shall each appoint eight members, two from each of the three grand divisions and two at-large members, with at least five members being lawyers. The Speakers shall appoint one at-large non-lawyer member jointly. Not more than three of the at-large members can be from the same grand division. Effective July 1, 2009, the membership of the Judicial Selection Commission shall be replaced pursuant to this act. The initial terms of the new members will be staggered with two of the Senate Speaker's appointments, two of the House Speaker's appointments, and the joint appointment having a term of two years. Three of the Senate Speaker's appointments and three of the House Speaker's appointments will have an initial term of four years. Three of the Senate Speaker's appointments and three of the House Speaker's appointments will have an initial term of six years.

Requires the Administrative Office of the Courts (AOC) to post on its Web site an application form for citizens who wish to be considered as judicial nominating commission appointees, to establish a deadline for applications, to post a summary of the applicants, and to receive public comments for a 14-day period after the application deadline. Requires the AOC to notify the general public and to provide written notification to the Senate and House Speakers. Within 14 days of the posting of the summary of applicants, requires the Speakers to make the initial appointments. Requires each member to be a United States citizen, at least 30 years of age, and a citizen of Tennessee for at least five years prior to appointment. Requires any member appointed from one of the grand divisions to have been a resident of that grand division for at least one year immediately prior to appointment.

No member of the Commission can be a registered lobbyist or a registered employer of a lobbyist in Tennessee. Automatically vacates the office of any member of the Commission who misses four meetings during the member's term of office or who becomes a registered lobbyist or registered employer of a

lobbyist. Requires all hearings, interviews, and deliberations of the Commission to be public. When selecting nominees, Commission members to vote anonymously by written ballots and requires such ballots to be collected, announced, and tallied at the public meeting. Authorizes the Tennessee Bureau of Investigation (TBI) to perform a Level II security clearance on possible nominees at the direction of the Governor. Requires the Commission, within 60 days from receipt of written notice from the Governor that a vacancy has occurred, to select and certify three nominees or the Governor may require one other panel of three additional nominees. Requires the Governor, to fill a vacancy that occurs in the office of an appellate court after July 1, 2009, within 60 days by appointing one of the six nominees. The Governor may reject both panels for good cause and fill the vacancy by appointing another qualified person. Requires the Governor to provide written notice, including reasons for rejection of nominees, to the Commission. Requires the Governor after receiving the Commission's nominees for vacancies, to direct the TBI or other appropriate agencies to perform financial and criminal background investigations of the nominees. If the Commission does not furnish three nominees within 60 days, authorizes the Governor to fill the vacancy by appointing any person who is licensed to practice law in the state of Tennessee and who is otherwise qualified. If a judge receives less than a majority on the retention election ballot, the resulting vacancy shall be filled by means of a contested election conducted in accordance with general election law. Reduces from 12 to nine, the membership of the Judicial Performance Evaluation Commission.

FISCAL IMPACT OF ORIGINAL BILL:

MINIMAL

A more precise cost estimate is not possible because the Administrative Office of the Courts has not provided any information to assist in the preparation of this fiscal note.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Decrease State Expenditures - \$24,800

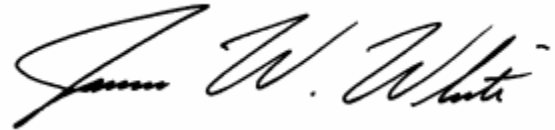
Assumption applied to amendments:

- According to the Administrative Office of the Courts, the costs associated with the Judicial Evaluation Commission for 2007 were \$148,898.92 and \$50,039.39 for 2008 resulting in a two-year average of \$99,469.16. The two-year average per member cost is \$8,289.10 ($\$99,469.16 / 12 = \$8,289.10$). Reducing the membership from 12 to nine

members will result in an average decrease in state expenditures of \$24,867.30 (\$8,289.10 x 3 members).

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/lsc